MASSACHUSETTS FOREST LANDOWNERS ASSOCIATION

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Massachusetts Department of Energy Resources
100 Cambridge Street, 10th floor
Boston, MA 02114

RE: Renewable Energy Portfolio Standard Regulations Proposed Final Biomass Energy Rulemaking

The Massachusetts Forest Landowner's Association is a non-profit organization whose mission is the conservation and stewardship of Massachusetts trees and woodlands, the interests of private forest landowners, and the health of a sustainable forest economy. Our members own more than 150,000 acres of woodlands in Massachusetts.

MFLA has commented multiple times upon the proposed RPS standards for biomass as they have been developed and revised. The latest revision of these regulations which was issued in April clearly demonstrate the Patrick Administration's decision to make requirements for the use of biomass energy so stringent as to forbid its use in Massachusetts, in direct contravention to the intent of the law setting up the Renewable Energy Portfolio Standards which was enacted to encourage the development of alternative renewable sources of energy.

The test of whether these proposed regulations are reasonable is whether any new biomass energy facilities are ultimately permitted and built in compliance with them – otherwise they simply represent an enormous waste of state resources.

Overall Efficiency

We think that the proposal to make the minimum efficiency standard 50 percent to qualify for partial REC credits is too stringent and will probably result in no such facilities being built in Massachusetts. Why would anyone risk a 50 or 100 million dollar investment in a major biomass facility in a state that is so clearly hostile to biomass with the potential to have RECs taken away? Can DOER demonstrate an existing operational facility anywhere in the United States that would meet the proposed efficiency requirements?

A better approach aimed at meeting the state's renewable energy goals would be to create a rising standard for efficiency for biomass facilities depending upon when they are built. It would be very difficult (and probably cost prohibitive) to upgrade an already built biomass plant to meet new efficiency standards given the capital costs required for what is clearly a risky investment.

We think it would be better to allow existing facilities to be eligible for the biomass standard with 30 percent efficiency, and one new permitted facilty in the 1st 10 years of these standards to be eligible for full RECs with 40 percent efficiency, with the requirement for additional facilities to be eligible for full RECs with 50 percent efficiency. This would allow existing plants to continue in operation, for a new plant to be built now,

and for additional new plants to be considered if biomass technology improves sufficiently to allow the 50 percent standard to be met.

Eligible Woody Biomass Fuel Forestry Standards

As a landowners' organization, we think that the proposed forestry standards for fuel eligibility are ridiculously complicated and unreasonable, adding excessive cost requirements to selling a low value product.

This is even worse when you realize that wood chips from landclearing are qualified with essentially no standards for sustainability whatsoever.

We think it is crazy to prescribe the number of live cavity trees, den trees and snags to be retained per acre – landowners should be able to manage for their own goals based on the conditions on their land without worrying about a nanny state coming out and saying they don't have enough den trees per acre. What would you do if the number of snags is insufficient because a windstorm blew down some of them? Kill some good trees so you have more snags to meet the requirements? How dumb would that be?

Use of Soil Surveys to determine Eligibility

We think that creating two categories (ie good or poor) for soils for forest growth in Massachusetts to determine suitability for removing residues is unduly simplistic. One calculation shows such use would restrict 1.5 of the state's 5 million acres of land. Studies at Hubbard Brook Experimental Forest have shown little or no effect from whole tree removal on most sites, certainly not justifying forbidding removals of residues on 30 percent of the land by itself.

We also think that the soil survey mapping is very cumbersome (and not available online for Franklin County) and not intended for use as DOER proposes to use it – the scales are too large and type limits on the ground way too vague to allow for practical use in the field.

Lack of Cost & Time Analysis

Nowhere in the information provided is any analysis by DOER to project how much time and expense would be incurred in complying with their forestry and reporting requirements for fuel eligibility. Has DOER applied their system to actual woodlands that have had (or are currently marked to have) thinnings or removals of biomass or residues done? What is the average cost for complying with this for a landowner with 25 acres? 50 acres? 100 acres?

Our understanding is that state law requires that new regulations are required to have an analysis of the cost impact of compliance for small businesses before they can be enacted. Has this been done for these regulations? What hasn't the information been released?

Eligibility of Salvage from Disasters or Insect Infestations

We think that the requirement that before forest salvage is eligible, APHIS or the Forest Service has to issue a declaration is clearly unreasonable. Whether it is ash borers or severe blowdowns, when a landowner needs to have salvage harvesting done, they shouldn't have to wait for an area-wide disaster declaration. Regardless of what has happened around them, they have a major issue requiring salvage on their land at that time.

Service foresters are authorized to issue salvage permits for timber harvests under Chapter 132, and if they approve a Forest Cutting Plan for salvage, such approval should be adequate to meet the eligibility requirements for biomass.

It is difficult enough for landowners in areas with serious damage like the tornado zone to get material cleaned up – DOER shouldn't put any additional roadblocks or bureaucratic layers in their way.

Non inclusion of Tree Farm in Certification Standards

The American Tree Farm System should be included in the list of Forest Certification Programs under 14.05 (8)(a)(4) along with FSC and SFI. All Tree Farms must meet AFF's Standards for Sustainability and Tree Farm certification is commonly used for certification for eligibility for pulp markets in northern New England. It is far more rigorous that the Forest Stewardship program standards or those of Chapter 61 or 61A.

Failure to include Landowners or Timber Harvesters on the Advisory panel

We think that the Advisory Panel should include a Massachusetts woodland owner and a licensed Massachusetts timber harvester if that panel is going to review the standards for biomass eligibility or the forestry standards.

Need to Review the Efficiency Standards to Determine if they are too Strict

We think that if these regulations are enacted, they should be reviewed in 5 years from the enactment date to determine if they have proved in fact too strict and should be revised with lower minimum efficiency requirements to a level more appropriate for the technology available.

Sincerely,

Gregory Cox
Executive Director